THE BOMBAY BHAGDARI AND NARWADARI TENURES ABOLITION ACT, 1949.

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BOMBAY ACT No. XXXII OF 1949.[1]

[THE BOMBAY BHAGDARI AND NARWADARI TENURES ABOLITION ACT, 1949.]

[*23rd June 1949.*]

An Act to abolish the Bhagdari and Narwadari tenures in the Province of Bombay.

WHEREAS it is expedient to abolish the Bhagdari and Narwadari tenures which prevail in certain parts of the Province of Bombay and to provide for certain other purposes hereinafter appearing; It is hereby enacted as follows:—

Short title, extent and commencement.

1. (*1*) This Act may be called the Bombay Bhagdari and Narwadari Tenures Abolition Act, 1949.

(*2*) It extends to the whole of the Province of Bombay.

(*3*) It shall come into force on such date as the Provincial Government may by notification in the *Official Gazette* specify.

Abolition of Bhagdari and Narwadari tenures.

2. With effect from and on the date on which this Act comes into force,—

(*1*) the Bhagdari and Narwadari tenures shall, wherever they prevail, be deemed to have been abolished;

(*2*) all the incidents of the said tenures attaching to any land held on such tenures shall be deemed to have been extinguished;

Bom. V of 1862.

(*3*) any declaration made by the Provincial Government under section 6 of the Bhagdari and Narwadari Act, 1862, shall be deemed to have been cancelled.

Holder of land forming part of bhag, narwa or recognised subdivision and persons in lawful possession of majmun to be deemed to be occupants.

3. (*i*) Every holder of any land forming part of a bhag, narwa or share in a bhagdari or narwadari village or any homestead, building site (gabhan) or premises appurtenant or appendant to any such bhag, narwa or share or a recognised subdivision of a bhag, narwa or share, and

(*ii*) every person lawfully in possession of any land forming part of a gam or pati majmun in a bhagdari or narwadari village,

immediately before the coming into force of this Act, shall be deemed to be an occupant within the meaning of the Bombay Land Revenue Code, 1879, in respect of such land in his possession and shall be primarily liable to the Provincial Government for the payment of land revenue due in respect of such land and shall be entitled to all the rights and shall be liable to all the obligations in respect of such land as an occupant under the said Code or any other law for the time being in force.

Bom. V of 1879.

All other majmun land and other property to be property of the Crown.

4. For the removal of doubt, it is hereby declared that all land forming part of a gam or pati majmun in a bhagdari or narwadari village other than the land referred to in clause (*ii*) of section 3, all waste and uncultivated land and all other kinds of property referred to in section 37 of the Bombay Land Revenue Code, 1879, situated in a bhagdari or narwadari village, which are not the property of

Bom. V of 1879.

[1] For Statement of Objects and Reasons *see Bombay Government Gazette*, 1949, Part V, page 139.

any individual or of any aggregate of persons capable of holding property, and except in so far as any rights of such persons may be established in or over the same, and except as may be otherwise provided in any law for the time being in force, are together with all rights in or over the same or appertaining thereto, the property of the Crown, and it shall be lawful to dispose of or set apart the same for the authority in the manner and for ths purpose provided in section 37 or 38 of the Bombay Land Revenue Code, 1879, as the case may be. Bom. V of 1879.

Alienation so far made not to be invalid.

5. Any alienation, assignment, mortgage of, or any charge or incumbrance on, any bhag, narwa or share in any bhagdari or narwadari village other than a recognised sub-division of such bhag, narwa or share or any homestead, building site (gabhan) or premises appurtenant or appendant to any such bhag, narwa or share made or created before the coming into force of this Act in contravention of the provisions of section 3 of the Bhagdari and Narwadari Act, 1862, shall not be or ever to have been deemed to be invalid merely on the ground that it was made or created in contravention of the said section : Bom. V of 1862.

Provided that the Collector or the other revenue officer has not made an order removing the person in whose favour such alienation, assignment, mortgage, charge or incumbrance was made or created from the possession of such land, and such order has not been set aside by a competent court before the coming into force of this Act.

Custom of female heirs excluded by male heirs void.

6. Any custom, usage or practice relating to the succession to any bhag, narwa or a bhagdari or narwadari village or any homestead, building site (gabhan) or premises appurtenant or appendant to such bhag, narwa or village whereby contrary to the personal law governing the parties, the female heirs were excluded absolutely or in favour of more distant male heirs, shall, to the extent of repugnancy, be deemed to be void and of no effect from and after the date on which this Act comes into force.

Saving of recognised alienation.

7. Nothing in section 3 of the Exemptions from the Land Revenue(No.2)Act,1863, shall affect the rights of any person in respect of any land in a Bhagdari or Narwadari village, the alienation of which land in favour of such person may have been recognised under the provisions of a special contract with the Crown or any law for the time being in force. Bom. VII of 1863.

Method of compensation for the extinguishment or modification of any rights in land.

8. (*1*) If any person is aggrieved by any of the provisions of this Act as extinguishing or modifying any of his rights in land and if such person proves that such extinguishment or modification amounts to the transference to public ownership of land or any right in or over such land, such person may apply to the Collector for compensation.

(*2*) Such application shall be made in a prescribed form and shall be made within six months from the date on which this Act comes into force.

(*3*) The Collector shall, after holding a formal inquiry in the manner provided by the Bombay Land Revenue Code, 1879, award such compensation as he deems reasonable, and adequate. In deciding the amount of the compensation the Collector shall be guided by the provisions of sub-section (*1*) of sections 23 and 24 of the Land Acquisition Act, 1894. Subject to the provisions of sub-section (*4*), the award of the Collector shall be final. Bom. V of 1879. I of 1894.

(*4*) Any person aggrieved by the award of the Collector may appeal to the Bombay Revenue Tribunal constituted under the Bombay Revenue Tribunal Act, 1939.

Bom. XII of 1939.

(*5*) In deciding appeals under sub-section (*4*) the Bombay Revenue Tribunal shall exercise all the powers which a Court has and follow the same procedure which a Court follows in deciding appeals from the decree or order of an original Court under the Code of Civil Procedure, 1908.

V of 1908.

Repeal.

9. The Bhagdari and Narwadari Act, 1862, and section 117 of the Bombay Land Revenue Code, 1879, are hereby repealed. The repeal of the said enactments and the provision declaring any incident of the Bhagdari and Narwadari tenures to have been extinguished shall not affect,—

Bom. V of 1862. Bom. V of 1879.

(*a*) any right, title, interest, obligation or liability already acquired, accrued, or incurred before the date on which this Act comes into force ;

(*b*) any legal proceeding, or remedy in respect of any such right, title, interest, obligation or liability or anything done or suffered to be done before such date.

Rules.

10. The Provincial Government may make rules for the purpose of carrying out the provisions of this Act. Such rules shall be subject to the condition of previous publication and shall when finally made be published in the *Official Gazette*.

Interpretation.

11. The words and expressions used in this Act shall have the meanings assigned to them in the Bombay Land Revenue Code, 1879.

Bom. V of 1879.

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